

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Tomohiro Igakura

Application No.: 09/960,548

Confirmation No.: 5904

Filed: September 20, 2001

Art Unit: 2161

For: FILE MANAGING SYSTEM

Examiner: T. Y. Chen

PETITION UNDER 37 CFR § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

It is respectfully requested that the Notice of Abandonment mailed October 23, 2009, be withdrawn and the present application proceed to the Board of Appeals for a Decision.

This Petition is being submitted on the grounds that the Examiner has improperly issued a Notice of Abandonment contending that a response to the Notice of Non-Compliant Appeal Brief dated March 6, 2009, was never received. A response to the Notice of Non-Compliant Appeal Brief was in fact filed on April 6, 2009.

M.P.E.P. § 711.03(c) provides that where Applicant's Petition to Withdraw a Holding of Abandonment is adequately supported, the Office may grant the Petition. Applicants respectfully submit that the below provides adequate support in accordance with the requirements of M.P.E.P. § 711.03(c).

A Notice of Non-Compliant Appeal Brief was mailed in the above-identified patent application on March 6, 2009. Applicant's representative received this Notice of Non-Compliant Appeal Brief on March 12, 2009. On April 6, 2009, Applicant's representatives held a telephone interview with the Examiner and the Primary Examiner, Etienne LeRoux. During the telephone interview it was discussed and agreed that mapping of dependent claims 4-6, 8-11 and 13-17 was not needed, and that additional mapping of independent claim 1 would be submitted. In response to the March 6, 2009 Notice, Applicant filed a responsive compliant Appeal Brief on April 6, 2009. The electronic records in the USPTO's PAIR system unequivocally show the filing of and receipt by the USPTO of the responsive compliant Appeal Brief on April 6, 2009.

Nonetheless, the Examiner issued a Notice of Abandonment on October 23, 2009, contending that a response Appeal Brief was not filed. In response to the Notice of Abandonment, Applicant's representatives had left voice messages for and spoken with the Examiner regarding the improper abandonment on a number of occasions from October 27 to November 18, 2009. Applicant's representatives were informed by the Examiner that she was still of the opinion that the Appeal Brief was non-compliant, and that the Notice of Abandonment would be withdrawn and a new Notice of Non-Compliant Appeal Brief issued. To date, however, no such action has been taken by the Examiner.

For the foregoing reasons, Applicant respectfully requests that the Commissioner (1) order the Examiner to withdraw the holding of abandonment of this application; and (2) order the Examiner to forward this application to the Board of Appeals for decision as the Appeal Brief filed is in compliance with all requirements of 37 CFR §41.37.

No fee is believed due for the filing of this Petition. However, if a fee is due, the Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-2215.

Dated: December 22, 2009

Respectfully submitted,

Electronic signature: /Richard LaCava/
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